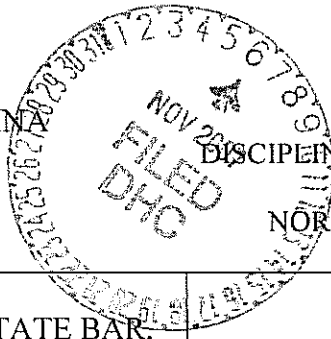


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
07 DHC 27

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

SUSANNA G. GARZA, Attorney,

Defendant

COMPLAINT

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the North Carolina General Statutes, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Susanna G. Garza ("Garza" or "Defendant"), was admitted to the North Carolina State Bar in 2002, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Revised Rules of Professional Conduct.

Upon information and belief:

3. During all or part of the relevant periods referred to herein, Garza was engaged in the practice of law in the State of North Carolina and maintained a law office in Charlotte, Mecklenburg County, North Carolina.

#### **FIRST CLAIM FOR RELIEF**

4. Paragraphs 1 through 3 are re-alleged and incorporated as if fully set forth herein.

5. In 2006, Garza represented Mario Llamas-Hernandez ("Llamas-Hernandez") on drug-related charges in Mecklenburg County.

6. Garza filed a Motion to Reveal Confidential Informant in Llamas-Hernandez's case, seeking to compel the State to reveal all its information about a confidential informant (CI) in the case.

7. The Motion to Reveal Confidential Informant was addressed by the court on 8 May 2006, at an in-chambers conference and a hearing in Llamas-Hernandez's case.

8. At the in-chambers conference prior to the 8 May 2006 hearing, the assistant district attorney (ADA) prosecuting the case provided Garza the CI's name and the amount of compensation he had received.

9. The ADA did not provide Garza with the CI's address.

10. At the 8 May 2006 hearing, the court indicated that the Motion to Reveal Confidential Informant was moot because the ADA had "elected to provide the name of the informant" in chambers.

11. On 16 May 2006, the ADA gave Garza the CI's cell phone number.

12. On or about 16 May 2006, Garza called the CI, introduced herself as an attorney, and stated who she represented.

13. When Garza asked the CI if she could meet with him, he responded that he was busy working.

14. Garza gave the CI her phone number, but he did not call.

15. Garza instructed her secretary to continue calling the CI's cell phone as part of their effort to determine whether the CI lived in Charlotte.

16. Garza also directed her secretary to tell the CI they had met in a nightclub and to propose that they arrange a meeting.

17. When Garza's secretary contacted the CI by phone, she told him they had met in a nightclub and she wanted to meet him.

18. The statements made by Garza's secretary to the CI were false.

19. At Garza's direction, Garza's secretary did not disclose to the CI that she worked for Garza.

20. At a 31 July 2006 hearing in Llamas-Hernandez's case, Garza stated to the court that she had personally contacted the CI by phone, disguised her voice, and attempted to arrange a meeting with him by telling him that they had met socially at a nightclub.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Garza violated the Revised Rules of Professional Conduct in effect at the time of the conduct as follows:

- (a) By directing her secretary to make false representations to the CI, Garza violated the Rules of Professional Conduct through the acts of another in violation of Rule 8.4(a), made knowingly false statements of material fact to a third party through the acts of another in violation of Rule 4.1, made statements to an unrepresented party through the acts of another which indicated she was disinterested in violation of Rule 4.3, and engaged in conduct involving dishonesty, deceit, and misrepresentation in violation of Rule 8.4(c);
- (b) By stating to the court that she, personally, had called the CI and disguised her voice in order to ascertain his whereabouts, when in fact her secretary had done so, Garza made a false statement of material fact to the tribunal in violation of Rule 3.3(a)(1) and engaged in conduct involving dishonesty, deceit, and misrepresentation in violation of Rule 8.4(c).

### **SECOND CLAIM FOR RELIEF**

21. Paragraphs 1 through 20 are re-alleged and incorporated as if fully set forth herein.

22. In June 2006, Jerzain Flores Roman ("Roman") retained Garza to represent him on a charge of speeding 51 mph in a 35 zone.

23. In plea negotiations with the assistant district attorney (ADA) on 25 August 2006, Garza stated that Roman had a clean driving record for the preceding three years.

24. Roman in fact had a two-year-old conviction for Driving While Impaired (DWI).

25. The ADA asked Garza to provide a copy of Roman's driving record.

26. Garza then went to the Clerk of Court's office and asked to use the Clerk of Court's computer.

27. Using the Clerk of Court's computer, Garza obtained Roman's driving record and altered it by deleting the 2004 DWI conviction.

28. Garza printed the altered version of Roman's driving record and presented it to the ADA.

29. Relying upon Garza's representations and the altered record provided by Garza, the ADA allowed Roman to enter a plea of guilty to the lesser charge of improper equipment.


THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Garza violated the Revised Rules of Professional Conduct in effect at the time of the conduct as follows:

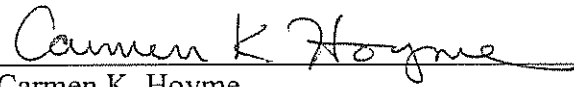
- (a) By stating to the ADA that Roman had no convictions in the preceding three years and by representing to the ADA that the altered driving record was an accurate copy of Roman's driving record, Garza made knowingly false statements to a third person in the course of representing a client in violation of Rule 4.1, and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c);
- (b) By fabricating an altered version of Roman's driving record, Garza engaged in the unlawful alteration of evidence or material having potential evidentiary value in violation of Rule 3.4(a), falsified evidence in violation of Rule 3.4(b), and engaged in conduct involving dishonesty, deceit, or misrepresentation in violation of Rule 8.4(c);
- (c) By making knowingly false representations to opposing counsel and unlawfully altering and falsifying evidence, Garza engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).

WHEREFORE, Plaintiff prays that:

- (1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(a) and § .0114 of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C.A.C. 1B § .0114), as the evidence on hearing may warrant;
- (2) The Defendant be taxed with the costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

The \_\_ day of November, 2007.

  
\_\_\_\_\_  
James R. Fox, Chair  
Grievance Committee

A handwritten signature in cursive script, reading "Carmen K. Hoyme", with a horizontal line drawn underneath.

Carmen K. Hoyme

State Bar No. 33998

Deputy Counsel

The North Carolina State Bar

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